

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

v.

**05-CR-270
(Hon. Thomas J. McAvoy)**

DAVID FALSO,

Defendant.

GOVERNMENT'S DISCOVERY STATEMENT

The government respectfully furnishes to the Court this written notice of discovery materials provided to the defendant through the respective counsel, Mark Suben. Attached to this statement is a copy of the summary letter sent to counsel in addition to the discovery materials/documents.

Dated: June 17, 2005



By: Miroslav Lovric
Assistant U.S. Attorney
Federal Building
15 Henry Street
Binghamton, New York 13901
(607) 773-2887



U. S. Department of Justice

*United States Attorney
Northern District of New York*

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*607 / 773-2887
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June 17, 2005

Mr. Mark D. Suben , Esq.
Suben Law Offices
One North Main Street
3rd Floor
Cortland, New York 13045

Re: United States v. David Falso, [05-CR-270 (TJM)]

Dear Mr. Suben:

This letter memorializes and confirms copies of discovery materials being provided to you, as enclosed herein with this communication, and also materials in our possession which are available for your inspection and review, at your convenience, in connection to the prosecution of David Falso.

Copies of following materials are enclosed:

1. Copy of FBI 302 summarizing statements given by David Falso during interview with FBI agents.
2. Copy of David Falso criminal history record.
3. Copy of Certificate of Conviction for David Falso for Endangering the Welfare of a Child [pursuant to N.Y. Penal Law 260.10(1)].
4. Copy of Search Warrant and Inventory list regarding search of Falso home and summary of items seized by the FBI.

Please be advised that the government is in possession of a computer and other computer related software and hardware. These items were defendant Falso's and they were seized from defendant Falso's home. They are presently being analyzed by computer forensic experts. That

process will take several weeks. Once the analysis is completed, I will forward to your attention a copy of the report prepared by the computer forensic experts. The government intends to offer into evidence at the trial all of these items, including the report prepared by the computer forensic experts. Additionally, one or more computer forensic experts will be called to testify at trial as to the examination of defendant's computer and what was contained and found on his computer.

Please note that seized from defendant's home were several hundred images of child pornography. Also seized, were numerous photographs taken by defendant and some of them constitute child pornography and the production of child pornography. Defendant is pictured in some of those photographs. All the child pornography images, pictures and photographs seized from Falso's home are available for your inspection and review at our offices. Additionally, all the other evidence seized by the FBI from Falso's home is available for your inspection and review at your convenience at our offices.

The government is not aware of any Brady material in this case at this time and we recognize our continuing duty to provide any such material in the future should it come to our attention. Giglio material, if any exists, as to any witness that will be called to testify by the government at trial will be disclosed prior to trial as called for by the Criminal Pre-Trial Order and by existing Second Circuit law.

Please be advised that the government intends to introduce Rule 404(b) evidence in its case in chief at trial. At this time, the known Rule 404(b) material is:

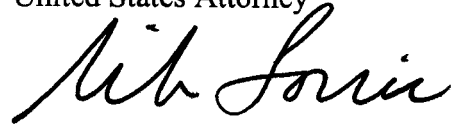
1) In 1986/1987, in Cortland County, defendant Falso did molest a 7 year old child. Defendant molested the child by placing his hand down her underwear, rubbing her vagina and inserting his finger into her vagina. As a result of that conduct, on September 21, 1987 in Homer Town Court, Falso pleaded guilty to Endangering the Welfare of a Child.

As additional 404(b) material is uncovered, I will provide notice.

Pursuant to the Criminal Pre-Trial Order in this case and Rules 16 and 12 of the Federal Rules of Criminal Procedure, the government hereby requests reciprocal discovery from defendant. Also, pursuant to Rule 12.1 of the Federal Rules of Criminal Procedure, the government requests any and all alibi notice as required by the federal rules. We also request notice and copies of any reports in connection to any examinations/tests conducted by the defense. Finally, pursuant to the rules, we request notice of any expert witness that the defense intends to call at trial, and a copy of their report, regardless as to whether it pertains to the guilt phase or the sentencing phase.

Very truly yours,

GLENN T. SUDDABY
United States Attorney

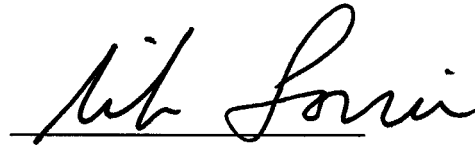
A handwritten signature in black ink, appearing to read "M. Lovric", written in a cursive style.

BY: Miroslav Lovric
Assistant U.S. Attorney

cc: United States District Court [For Filing w/o discovery materials/enclosures]

CERTIFICATE OF SERVICE FOR ELECTRONIC CASE FILING SYSTEM

I hereby certify that on June 17, 2005, I electronically filed with the NDNY Clerk of the District Court using the CM/ECF system the above-referenced document(s) in connection with the above-referenced case. The CM/ECF system automatically sent electronic notifications of such filing to the attorneys of record in this case, as maintained by the District Court Clerk's Office, AND who are properly registered in the CM/ECF system for the NDNY as required pursuant to NDNY General Order #22. As for any attorney of record in this case who is not registered in the CM/ECF system for the NDNY, the government has caused to be mailed or faxed to that attorney either the actual CM/ECF electronic notification/e-mail as received from the CM/ECF system by the government and/or the actual documents being filed. Therefore, the non-registered attorney(s) will receive the same electronic ECF notice with the same information as will the attorney(s) who is/are registered in the CM/ECF system.

A handwritten signature in black ink, appearing to read "M. Lovric", written over a horizontal line.

Miroslav Lovric
Assistant U.S. Attorney